

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PCT 7682/he	FOR FURTHER ACTION	
		See Form PCT/IPEA/416
International application No. PCT/EP2004/001139	International filing date (<i>day/month/year</i>)	Priority date (<i>day/month/year</i>) 10.02.2003
International Patent Classification (IPC) or national classification and IPC A61B 17/12		
Applicant GÖBEL, Lothar		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>4</u> sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table style="margin-left: 20px;"> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/001139

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- international search (Rule 12.3 and 23.1(b))
 - publication of the international application (Rule 12.4)
 - international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- the international application as originally filed/furnished
- the description:
pages 1-17 as originally filed/furnished
pages* _____ received by this Authority on _____
pages* _____ received by this Authority on _____
- the claims:
nos. _____ as originally filed/furnished
nos.* _____ as amended (together with any statement) under Article 19
nos.* 1-28 received by this Authority on 10.09.04 with letter of 10.09.04
nos.* _____ received by this Authority on _____
- the drawings:
sheets 1/3-3/3 as originally filed/furnished
sheets* _____ received by this Authority on _____
sheets* _____ received by this Authority on _____
- a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. The amendments have resulted in the cancellation of:
- the description, pages _____
 - the claims, nos. _____
 - the drawings, sheets/figs _____
 - the sequence listing (*specify*): _____
 - any table(s) related to sequence listing (*specify*): _____
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- the description, pages _____
 - the claims, nos. _____
 - the drawings, sheets/figs _____
 - the sequence listing (*specify*): _____
 - any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V **Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims	1-28	YES
	Claims		NO
Inventive step (IS)	Claims	1-28	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-28	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1 Reference is made to the following documents:

D1 DE-A-19508129
 D2 EP-A-1097675
 D3 US-A-5667479
 D4 US-A-5643178
 D5 EP-A-624349

2 Since none of documents D1-D4 discloses a tamponade body, document D5 is considered the prior art closest to the subject matter of claim 1 and discloses a device for tamponading body cavities, from which the subject matter of claim 1 differs at least in that the two ends of the tubular section are joined in a fluid-tight manner at the same tubular nipple closing element, in order to produce tubular segment 2, a torus shape being striven for during filling.

2.1 The subject matter of claim 1 is thus novel (PCT Article 33(2)).

2.2 The present invention can therefore be considered

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<p>to address the problem of reducing the number of different-sized tamponade devices required.</p> <p>2.3 The solution to this problem as proposed in claim 1 of the present application involves an inventive step (PCT Article 33(3)), since it is not suggested by the prior art.</p> <p>2.4 Claims 2-28 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.</p> <p>3 See, however, Box VIII, items 1 and 2.</p>	

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

- 1 The description does not indicate any document that reflects the prior art described in the first part of claim 1 (PCT Rule 5.1(a)(ii)).

- 2 It is not clear from the current wording of claim 1 that the tube ends 7,9 are ends of a tubular section 1 and not ends of the tubular segment 2.